Supreme Court, U.S.
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No. 78, Original

In the Supreme Court of the United States

OCTOBER TERM, 1978

STATE OF CALIFORNIA, PLAINTIFF

v.

STATE OF ARIZONA and UNITED STATES OF AMERICA

ANSWER OF THE UNITED STATES

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

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ANSWER OF THE UNITED STATES

The United States, by the Solicitor General, makes answer to the complaint filed herein, as follows:

First Defense

This action is barred by limitations, pursuant to 28 U.S.C. 2409a(f), insofar as the claim affects lands north of the junction of the Palo Verde Pilot Cut with the Old Palo Verde Lagoon, that junction being described by an east-west line passing through the auxiliary meander corner of Section 22, T. 1 S., R. 24 W., Gila and Salt River Meridian.

Second Defense

For answer to the numbered paragraphs of the complaint:

1. The United States admits paragraphs I, II, III, IV, and V of the complaint.

2. As to paragraph VI of the complaint:

(a) The United States denies that the State of California is the owner of the lands lying within a portion of the former bed of the Colorado River as described in Exhibit A to the complaint insofar as the lands lie north of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon; and the United States affirmatively alleges that the boundary between the lands of the United States and those of the State of California north of said junction is as described by a federal survey accepted on August 29, 1961, and noticed at 26 Fed. Reg. 11687 (Dec. 6, 1961);

(b) The United States is without knowledge or information sufficient to form a belief as the truth of the allegation that the State of California is the owner of the lands lying within a portion of the former bed of the Colorado River as described in Exhibit A to the complaint insofar as the lands lie south of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon; however, the United States disclaims ownership of the said lands and the United States admits that the boundary between the lands of United States and those of State of California lying south of the said junction is as described in Exhibit A to the complaint, except to the extent that Exhibit A inconsistent with the description contained in the Davis Lake Study.

3. The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph VII of the complaint.

4. The United States admits the allegations contained in paragraph VIII of the complaint, except that federal surveys have not been conducted along the entire length of the bed of the Colorado River as described in Exhibit A to the complaint; the United States affirmatively alleges that lands lying north of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon were surveyed

by the federal government, which survey was accepted on August 29, 1961, and noticed at 26 Fed. Reg. 11687 (Dec. 6, 1961).

5. The United States denies paragraph IX of the complaint.

6. The United States is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph X of the complaint.

7. The United States denies the allegations contained in paragraph XI of the complaint.

8. The United States denies each and every allegation of the complaint not specifically admitted, denied, or qualified herein.

WHEREFORE, having fully answered, the United States prays this Court to dismiss this action as to the lands lying north of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon, and to confirm, declare, and establish that the boundary between the lands of the United States and those of the State of California lying south of the said junction is as described in the Davis Lake Study and, except as inconsistent, as described in Exhibit A to the complaint.

WADE H. MCCREE, JR.
Solicitor General

MARCH 1979